

AMENDED IN SENATE AUGUST 28, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2906

**Introduced by Committee on Agriculture (Matthews (Chair),
Maze (Vice Chair), Canciamilla, Cogdill, Parra, Salinas, and
Vargas)**

February 24, 2006

An act to amend Sections 16522.5, 33221, 33222, 33223, 33224, 33225, 33226, 33251, 33252, 33257, 33261, 33262, 33263, 33264, 33291, 33292, 33296, 33297, and 33298 of, and to add ~~Section~~ *Sections 21751 and* 33228 to, the Food and Agricultural Code, relating to ~~milk inspection services~~ *agriculture*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2906, as amended, Committee on Agriculture. ~~Milk inspection services.~~ *Agriculture.*

Existing law provides that a dairy exemption number issued by the Secretary of Food and Agriculture shall be evidence of ownership of specified cows and bulls presented for sale at a registered or posted salesyard, or licensed slaughter plant for immediate slaughter and it shall be written on the bill of consignment when the cattle are presented to an inspector.

This bill would provide that every 5 years the secretary may charge a fee, not exceeding \$50, to cover the cost of issuing a dairy exemption number. Because the fee would be deposited into the continuously appropriated Food and Agriculture Fund, it would make an appropriation. This bill would specify that the secretary may refuse to issue a dairy exemption number to, or revoke the dairy exemption

number of, any person who has violated specified provisions of law or has been convicted of livestock theft. This bill would also provide that it is a crime for any person who buys cattle with a dairy exemption number at a public auction to fail to send those cattle directly to slaughter, as specified. Because this bill would create a new crime, this bill would impose a state-mandated local program.

Existing law requires that various persons engaged in the business of producing, processing, distributing, or transporting market milk to obtain a permit from the Secretary of Food and Agriculture, as specified. Existing law provides that prior to issuance of that permit, an inspection of the dairy, milk products plant, business, or tanker truck, for which a cost-related inspection fee shall be paid.

This bill would require persons engaging in the business of cleaning or sanitizing bulk milk tanker trucks to obtain a permit from the secretary. This bill would provide that bulk milk tanker trucks shall only be cleaned or sanitized at a facility holding such a license or at a licensed milk products plant or dairy farm. This bill would require bulk milk tanker truck cleaners or sanitizers to be inspected and would provide that the secretary may establish a cost-related fee for inspection.

Because it is a crime to interfere with the enforcement of these provisions this bill would increase the scope of an existing crime, thereby imposing a state-mandated local program.

This bill would make numerous other technical, nonsubstantive, and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 16522.5 of the Food and Agricultural*
- 2 *Code is amended to read:*
- 3 16522.5. (a) A dairy exemption number shall be evidence of
- 4 ownership of cull beef cows and bulls of a recognized dairy

1 breed presented for sale at a registered or posted—~~saleyard~~
 2 ~~salesyard~~, or licensed slaughter plant for immediate slaughter.
 3 Any person owning a dairy farm as defined in Section 32505
 4 may apply to the ~~director~~ secretary for an exemption number.
 5 ~~The director~~

6 (b) Every five years, the secretary may charge a fee to cover
 7 the cost of issuing and renewing a dairy exemption number. The
 8 fee may not exceed fifty dollars (\$50). The secretary may refuse
 9 to issue such number to persons ~~convicted of violating~~ who have
 10 violated any provision of Division 9 (commencing with Section
 11 16301), Division 10 (commencing with Section 20001), or
 12 Division 11 (commencing with Section 23001) of the Food and
 13 Agricultural Code, or to persons convicted of livestock theft.

14 (c) The dairy exemption number shall be written on the bill of
 15 consignment, defined in Section 21703, when the cattle and
 16 consignment slip are presented to an inspector at the registered or
 17 posted—~~saleyard~~ salesyard, or licensed slaughter plant. The
 18 salesyard operator shall display the letters “EX” in the
 19 description line of the salesyard outbidding. An exemption
 20 number shall be deemed to meet the identification information
 21 requirements of Section 21703. The cows shall be consigned,
 22 owned, and sold in the name of the person having the exemption
 23 number.

24 (d) ~~The director~~ secretary may revoke the dairy exemption
 25 number of any person who violates any provision of the Food
 26 and Agricultural Code, or who is convicted of livestock theft.

27 SEC. 1.4. Section 21751 is added to the Food and
 28 Agricultural Code, to read:

29 21751. (a) If cattle sold at a public auction have a dairy
 30 exemption number, the auctioneer shall announce at the sale that
 31 those cattle are being sold under the dairy exemption number
 32 provision and must go directly to slaughter.

33 (b) Any person who buys cattle under a dairy exemption
 34 number at a public auction and fails to send those cattle directly
 35 to slaughter is guilty of a public offense punishable by a fine not
 36 exceeding one hundred dollars (\$100) per incident for the first
 37 violation, not exceeding two hundred and fifty dollars (\$250) per
 38 incident for a second violation, and not exceeding five hundred
 39 dollars (\$500) per incident for a third or subsequent violation.
 40 These penalties shall take effect on July 1, 2007. Prior to that

1 *date, the department shall notify salesyard managers and dairy*
2 *producers at salesyards that it is a violation of law to neglect to*
3 *send cattle covered by this section directly to slaughter, and issue*
4 *oral or written warnings for noncompliance.*

5 **SECTION 1.**

6 **SEC. 1.8.** Section 33221 of the Food and Agricultural Code is
7 amended to read:

8 33221. As used in this article, “permit” means a permit that is
9 issued pursuant to Section 33222.

10 **SEC. 2.** Section 33222 of the Food and Agricultural Code is
11 amended to read:

12 33222. Every person, before engaging in the business of
13 producing market milk, shall obtain a permit from the secretary
14 or from the approved milk inspection service that is maintained
15 by the county designated by the director pursuant to this chapter
16 for each dairy farm.

17 **SEC. 3.** Section 33223 of the Food and Agricultural Code is
18 amended to read:

19 33223. If a permit is issued by an approved milk inspection
20 service designated by the secretary to a producer of market milk,
21 no other permit shall be required of the producer by any other
22 approved milk inspection service.

23 **SEC. 4.** Section 33224 of the Food and Agricultural Code is
24 amended to read:

25 33224. Upon receipt of an application for a permit, the
26 secretary or approved milk inspection service shall cause an
27 investigation to be made of the dairy farm where milk is
28 produced and of the herd that produces the milk.

29 **SEC. 5.** Section 33225 of the Food and Agricultural Code is
30 amended to read:

31 33225. If this division and the standards that are established
32 by or adopted pursuant to the authority that is granted in this
33 division are complied with, and the applicant’s milk is to be
34 delivered within a county which maintains an approved milk
35 inspection service, a permit shall be issued by the secretary or the
36 approved milk inspection service, to the dairy farm. The permit
37 shall be issued for a period not to exceed one year.

38 **SEC. 6.** Section 33226 of the Food and Agricultural Code is
39 amended to read:

1 33226. Every person shall obtain a permit from the secretary
2 before engaging in the business of processing or distributing
3 market milk. Upon receipt of an application for a permit, the
4 secretary shall cause an investigation to be made of the milk
5 products plant or place of business from which milk is
6 distributed. If this division and the standards that are established
7 pursuant to the authority that is granted in this division are
8 complied with, a permit shall be issued by the secretary to the
9 milk products plant or place of business. The permit shall be
10 issued for a period not to exceed one year.

11 SEC. 7. Section 33228 is added to the Food and Agricultural
12 Code, to read:

13 33228. (a) Any person, before engaging the business of
14 cleaning or sanitizing bulk milk tanker trucks shall obtain a bulk
15 milk tanker truck cleaning or sanitizing permit from the secretary
16 for each facility not attached to a licensed milk products plant or
17 market milk dairy farm that is used in the cleaning or sanitizing
18 of bulk milk tanker trucks.

19 (b) Bulk milk tanker trucks shall be cleaned or sanitized only
20 at a facility holding a valid bulk milk tanker truck cleaning
21 facility permit, a licensed milk products plant, or a permitted
22 market milk dairy farm.

23 (c) Upon receipt of an application for a bulk milk tanker truck
24 cleaning facility permit, the secretary shall cause an inspection to
25 be made of the facility. If this division and the standards that are
26 established pursuant to the authority that is granted in this
27 division are complied with, a permit shall be issued by the
28 secretary to the bulk milk tanker truck cleaning or sanitizing
29 facility or place of business. The permit shall be issued for a
30 period not to exceed one year.

31 (d) The secretary shall establish a cost-related inspection fee
32 for the inspection and permitting of bulk milk tanker truck
33 cleaning or sanitizing facilities not attached to a licensed milk
34 products plant or market milk dairy farm.

35 SEC. 8. Section 33251 of the Food and Agricultural Code is
36 amended to read:

37 33251. The county that maintains an approved milk
38 inspection service where an inspection fee is levied and collected
39 shall determine the actual cost of making an inspection of a dairy
40 farm that produces market milk within the area that is designated

1 and assigned to that service by the secretary. Records of the cost
2 determination shall be made and maintained by the county for
3 examination by the director or other interested person.

4 SEC. 9. Section 33252 of the Food and Agricultural Code is
5 amended to read:

6 33252. For the purpose of maintaining an approved milk
7 inspection service, the county may, but is not required to, levy
8 and collect an inspection fee or fees from producers of market
9 milk that is produced at dairy farms within the area that is
10 designated and assigned to that service by the director.

11 SEC. 10. Section 33257 of the Food and Agricultural Code is
12 amended to read:

13 33257. If an approved milk inspection service inspects a dairy
14 farm, the dairy farm inspection fee, if levied, shall be collected
15 from the producer of market milk that is produced on the dairy
16 farm.

17 SEC. 11. Section 33261 of the Food and Agricultural Code is
18 amended to read:

19 33261. Charges that are made by any approved milk
20 inspection service for inspection fees are subject to audit by the
21 director, and for this purpose the director shall have access to all
22 books, papers, records, or documents that pertain to any and all
23 transactions of any approved milk inspection service and may
24 inspect and copy them in any place within the state.

25 SEC. 12. Section 33262 of the Food and Agricultural Code is
26 amended to read:

27 33262. Ten percent of the producers within any approved
28 inspection area may file with the director a written protest as to
29 the reasonableness of any inspection fee that is levied and
30 collected from the producer pursuant to Section 33252.

31 SEC. 13. Section 33263 of the Food and Agricultural Code is
32 amended to read:

33 33263. The secretary shall, after 30 days' public notice of the
34 hearing, and after five days' written notice to any approved milk
35 inspection service that is concerned, hold a hearing on the
36 protest. The secretary may deny, postpone, or consolidate
37 hearings for good cause. The secretary shall provide in writing
38 the reasons for the denial, postponement, or consolidation of
39 hearings.

1 SEC. 14. Section 33264 of the Food and Agricultural Code is
2 amended to read:

3 33264. Upon the completion of hearing, the secretary may
4 establish a reasonable fee for the inspection that is the subject of
5 the protest. Thereafter until the order of the secretary is revoked,
6 suspended, or amended, the producer, notwithstanding any other
7 provision of this article, is not required to pay to the approved
8 milk inspection service any inspection fee in excess of the fee
9 that is designated as reasonable by the secretary. The secretary
10 shall make, and maintain, written findings upon which inspection
11 fees are established pursuant to this section. The written findings
12 shall be readily available to any interested person for
13 examination.

14 SEC. 15. Section 33291 of the Food and Agricultural Code is
15 amended to read:

16 33291. Every person that is engaged in the production of
17 market milk outside the jurisdiction of an approved milk
18 inspection service and every person engaged in the processing,
19 manufacture, or distribution of milk, milk products, or products
20 resembling milk products, in the cleaning or sanitizing of bulk
21 milk tanker trucks, or in the processing, manufacture, or freezing
22 of ice cream, ice milk, sherbet, or any similar frozen product
23 shall pay a cost-related inspection fee to the secretary.

24 SEC. 16. Section 33292 of the Food and Agricultural Code is
25 amended to read:

26 33292. Every milk products plant that is subject to this
27 chapter shall deduct from payments that are due producers for
28 market milk, and shall pay to the secretary, the fee required to be
29 paid by the producer.

30 SEC. 17. Section 33296 of the Food and Agricultural Code is
31 amended to read:

32 33296. The secretary shall make, and maintain, written
33 findings upon which inspection fees are fixed pursuant to
34 Sections 33294 and 33295. The written findings shall be readily
35 available to any interested person for examination.

36 SEC. 18. Section 33297 of the Food and Agricultural Code is
37 amended to read:

38 33297. Any person subject to inspection fees provided for in
39 Section 33291 may file with the secretary a written protest as to

1 the reasonableness of any inspection fee that is levied and
2 collected from those persons.

3 The director shall, after 30 days' notice, hold a hearing on the
4 protest and upon completion of the hearing, the secretary shall
5 make and maintain written findings as to whether or not the fee is
6 reasonable.

7 SEC. 19. Section 33298 of the Food and Agricultural Code is
8 amended to read:

9 33298. The secretary shall establish plan review fees for
10 sanitary design and construction review activities relating to milk
11 product plants and frozen milk product plants pursuant to
12 Chapter 6 (commencing with Section 33701). The fees shall not
13 exceed the actual direct costs required to perform sanitary design
14 and construction plan checks. Any money collected by the
15 secretary pursuant to this section shall be paid into the
16 Department of Food and Agriculture Fund.

17 SEC. 20. No reimbursement is required by this act pursuant
18 to Section 6 of Article XIII B of the California Constitution
19 because the only costs that may be incurred by a local agency or
20 school district will be incurred because this act creates a new
21 crime or infraction, eliminates a crime or infraction, or changes
22 the penalty for a crime or infraction, within the meaning of
23 Section 17556 of the Government Code, or changes the
24 definition of a crime within the meaning of Section 6 of Article
25 XIII B of the California Constitution.